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December 11, 1995

Pamela Lazos, Esquire  
Environmental Protection Agency  
Region III  
841 Chestnut Building  
Philadelphia, PA 19107

Re: GE/Revere

Dear Ms. Lazos:

In order to be prepared to proceed with the design work, the Revere Steering Committee has been examining closely the several components of the remedy for Operable Unit 1 selected by EPA at the Revere Site. We are particularly concerned about one of the three criteria for defining the location and extent of the surface cap at the site.

The Record of Decision (December 27, 1993) at 34-35 established three (3) criteria for the cap construction: 1) to cover soils where the hazard index for exposure exceeds 1, 2) to cover soils presenting a carcinogenic risk exceeding  $1 \times 10^{-4}$ , and 3) to cover soils which will leach contaminants (using the Synthetic Precipitation Leaching Procedure or SPLP) to levels above the method detection limits (MDL's) using Drinking Water Analytical Methods. We will refer to this last criterion as the SPLP/MDL criterion.

According to the ROD, the cap must meet each of the three criteria. It is the SPLP/MDL that the Committee wishes to discuss at this time. The other two criteria are not the subject of this letter.

The Administrative Record reveals that the SPLP/MDL grew out of a concern raised by the Pennsylvania Department of Environmental Resources (PADER) (now Pennsylvania Department of Environmental Protection or PADEP) that its Groundwater Quality Protection Strategy ("Strategy") be implemented. EPA Responsiveness Summary (attached to ROD) at 24-25. The Strategy was "ideological" rather than scientifically-based since it provided for cleanup of groundwater to background levels without regard to any actual risk

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or environmental impact. The concept in the 1993 ROD was that the SPLP/MDL could be used "to back-calculate contaminant levels remaining in soils that would not impact groundwater above background levels." Id. It is clear that EPA did not devise the SPLP/MDL for the purpose of achieving any federal (EPA) goal, standard or policy. In addition, the SPLP/MDL was not even compelled by state law since the Strategy was not adopted pursuant to any statute of the Commonwealth.

The Revere Steering Committee believes that the SPLP/MDL is arbitrary and unreasonable and should be removed because a) it is unrelated to the achievement or maintenance of any recognized human health or environmental standard, b) it is so extreme that it would require capping of soils with only trace amounts of substances, including soils with naturally-occurring components, (because the Method Detection Limits are so low), and c) the underlying Strategy has been expressly abrogated by legislation of the Pennsylvania General Assembly (Act 2 of 1995, the Land Recycling and Environmental Remediation Standards Act) and has been openly repudiated by PADEP.

Act 2 of 1995 became law on May 19, 1995 and took effect sixty (60) days later. The legislation was a direct response, in part, to the former PADER enforcement policy that industry should be made to clean up the environment to pristine conditions regardless of any scientifically-based criteria, risk levels or actual environmental impact. By contrast to the obsolete Strategy, Section 102(b) of Act 2 declared the policy of the Commonwealth to be that:

Cleanup plans should be based on the actual risk that contamination on the site may pose to public health and the environment, taking into account its current and future use and the degree to which contamination can spread offsite and expose the public or the environment to risk, not on cleanup policies requiring every site in this Commonwealth to be returned to a pristine condition.  
(Emphasis added).

To this end, Act 2 allows responsible parties to clean up sites to statewide health standards or site-specific risk-based standards that take into account current or planned future use. Section 301(a). The Revere Site SPLP/MDL is totally inconsistent with the express provisions of Act 2 that contemplate cleanup standards being based on actual risk and realistic use scenarios. There is no human health or environmental protection justification

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for the SPLP/MDL at Revere; the Revere Site is not planned for any residential use.<sup>1</sup>

The Steering Committee's request to remove the SPLP/MDL criterion is further supported by the recent results of the Supplemental Remedial Investigation for groundwater (Operable Unit 2) conducted at the site. This Supplemental OU-2 RI (which has been reviewed by EPA and PADEP) has shown that migration of substances on-site is most unlikely because of hydrogeological factors. Thus, even if trace amounts of these substances above MDL's were to be leached from soils on-site, these substances would not migrate to any point of exposure. Furthermore, the SPLP/MDL criterion serves no purpose with respect to the organic constituent on the site that will be removed separately by vacuum extraction.

It is in EPA's discretion to remove the SPLP/MDL from the Revere ROD because the criterion was never based on federal laws or requirements and the Pennsylvania Strategy behind the criterion has been abrogated by state statute. The fact that the SPLP/MDL was included in a 1993 ROD does not prevent the Agency from adjusting the cap criteria before final design. PADEP has formally notified the public that cleanup criteria that have been imposed in the past (but not yet implemented in a site cleanup) are subject to modification by the responsible party in accordance with Act 2.<sup>2</sup> It would be anomalous for EPA to impose the SPLP/MDL as a cleanup criterion when PADER itself would not do so today.

The modification sought by the Steering Committee does not "fundamentally alter the basic features of the selected remedy with respect to scope, performance or cost," and therefore EPA does not need to amend the ROD. See 40 C.F.R. § 300.435(c)(2)(ii) (National Contingency Plan provision comparing ROD amendment to Explanation of Significant Differences). The site will be capped with the same type of cap defined in the ROD to protect against erosion and contact with inorganics in soils.

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<sup>1</sup> Recent Guidance at the federal level echoes the principle that remedy selections at CERCLA sites should be based on realistic land use scenarios. See EPA Office of Solid Waste and Emergency Response, Land Use in the CERCLA Remedy Selection Process, OSWER Directive No. 9355.7-04 (May 25, 1995).

<sup>2</sup> See Pennsylvania Department of Environmental Protection, Technical Manual, Pennsylvania Land Recycling Program (July 18, 1995), Appendix D at 6.

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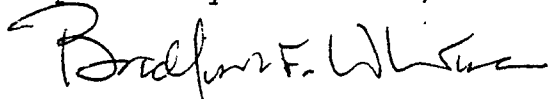
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For all of the foregoing reasons, the Steering Committee respectfully requests EPA to remove the SPLP/MDL from the criteria for cap design at the Revere Site. We would be pleased to discuss this request with EPA at your convenience.

Respectfully submitted,

*for*   
REVERE STEERING COMMITTEE

:dmj

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